

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

2004 FEB 12 CIVIL ACTION NO.
4:03-CV-40253-NMG

U.S. DISTRICT COURT
DISTRICT OF MASS.

DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS CUSTODIAN OR
TRUSTEE, f/k/a BANKERS TRUST
COMPANY OF CALIFORNIA, N.A.,

Plaintiff,

v.

ROSE CASTRO, JOSH CASTRO,
JOSEPH DIMARE and ALL OTHER
OCCUPANTS,

Defendants.

**PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR
EXTENSION OF TIME TO OPPOSE PLAINTIFF'S MOTION TO REMAND**

Now comes the Plaintiff, Deutsche Bank National Trust Company, as Custodian or Trustee, f/k/a Bankers Trust Company of California, N.A. ("Deutsche Bank"), and opposes Defendants' Motion for an Extension of Time to Oppose Plaintiff's Motion to Remand. In support of Deutsch Bank's Opposition, it states the following.

Defendants' Motion for an extension of time must be denied because Defendants have no basis for requesting such an extension and are merely attempting to delay the eviction proceedings to the detriment of Deutsch Bank. Defendant Rose Castro is the former mortgagor of the property at issue in this case. Deutsch Bank foreclosed on the property on September 30, 2003. Deutch Bank's Summary Process Complaint, seeking to evict Defendants Rose Castro, Josh Castro, Joseph Dimare and all other occupants, was filed in the

the Housing Court Department of the Trial Court of Massachusetts, Worcester County Division ("Housing Court") on October 27, 2003, nearly four (4) months ago. The Defendants have been living at the property for nearly five (5) months rent free, and have refused to vacate the premises pursuant to the Notice to Quit served upon them. On November 19, 2003, Defendants filed a Notice of Removal with this Court and the Housing Court, with no jurisdictional basis therefore, simply as a delay tactic. Thereafter, the Defendants failed to file the required certified documents with this Court, as additional time passed and they remained on the property rent free.

Defendants, now represented by counsel, are again attempting to delay the eviction proceedings by requesting additional time to respond to Deutsch Bank's Motion to Remand this action back to the Housing Court. The only basis for the Motion given by Defendants' counsel is that he needs additional time to formulate a substantive response to the Motion to Remand. The only issue involved in the Motion to Remand is whether the value of the claims in this action exceed \$75,000.00, as required by 28 U.S.C. § 1332(a). As fully set forth in Deutsche Bank's Motion to Remand, the Defendants have brought forth no claims at all in this action, and Plaintiffs' claims have a value of less than \$5,000.00. Moreover, the deadline for Defendants to Answer the Summary Process Complaint in this action has passed under the state, federal and local rules. As such, additional time for Defendants' counsel to formulate a response is unnecessary, since the analysis of the jurisdictional issue is simple – the value of the claims in this action can not possibly exceed \$75,000.00.

If the Court grants this Motion for more time to respond to the Motion to Remand, Deutsch Bank will be caused additional monetary harm. Deutsch Bank is the current owner of the property and desires to sell the property, but can not do so as long as the tenants refuse to

vacate. In addition, Deutsch Bank is losing the rent payments that it is entitled to collect from Defendants, or from other tenants it chooses to place in the property.

For the foregoing reasons, Deutsch Bank respectfully requests the Court to deny Defendants' Motion for an extension of time to respond to the Motion to Remand.

**DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS CUSTODIAN OR
TRUSTEE, f/k/a BANKERS TRUST
COMPANY OF CALIFORNIA, N.A.,**

By its attorneys,



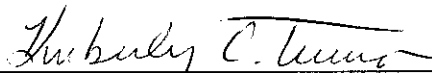
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Dated: February 11, 2004

CERTIFICATE OF SERVICE

I, Kimberly C. Turina, hereby certify that on the 12th day of February, 2004, I served by first class mail, postage prepaid, a copy of the Plaintiff's Opposition to Defendant's Motion for Extension of Time to Oppose Plaintiff's Motion to Remand to the following:

Adrian A. Gaucher, Jr.
Law Offices of Gaucher & Gaucher
60 Hamilton Street
Southbridge, MA 01550-1808



Kimberly C. Turina